DAWN

OPINION

Legal fight

ONE day, the humbling of the present-day judiciary may be remembered as a tragedy. For now, it resembles a spectacle. Earlier this week, four judges of the Islamabad High Court approached the Supreme Court, hoping to challenge the recently enacted 27th Amendment. Instead of the senior judges being given an audience, they were told to take their issues to the Federal Constitutional Court. In other words, the petitioners were told to seek justice from an institution whose very creation they were there to challenge. It was a sobering moment. The four judges had petitioned the Supreme Court after months of voicing their apprehensions regarding the "incremental but systematic dismantling" of judicial independence, a process which began with the passage of the 26th Amendment and ended in the most recent constitutional changes. Instead, they appeared to find the Supreme Court more than deferential to an institution that had subverted its authority.

One must highlight again that these were not ordinary petitioners. All four are sitting judges — recognised members of the country's superior judiciary. All four would seem to strongly believe that the new amendment is severely violative of several established articles of the Constitution. The objections they raised in their petition regarding the appointment of the new court, the transfer of judges on executive whim, and the decimation of judicial independence through institutional capture and the installation of 'like-minded' judges are questions that have also been raised by legal experts, international observers, as well as concerned members of the public. For them to be brushed aside as brusquely as parliament had the amendment enacted merely reinforces the perception that a future has been chosen for the judiciary, and that no debate or legal cross-examination of the 'why' and 'what for' will be able to change it.

The legal fight has now become even more complicated. On Saturday, the four judges, joined by one more, challenged the transfer from the Supreme Court to the FCC of an intra-court appeal against a Constitutional Bench judgement deeming the transfer of judges from other high courts to the IHC 'constitutional'. They have now told the FCC directly that they consider the 27th Amendment 'unconstitutional' and reminded it that the amendment is under challenge. Now, those in the judiciary who have agreed with the regime on the 27th Amendment may choose to stick to their guns. And they are free to do so. But they should satisfy the petitioners, and all those who will be following this case, that any decision to uphold the amendment rests on sound legal reasoning and not another 'doctrine'. This case must be heard in detail, and the proceedings should ideally be televised for public consumption. This is an opportunity for the FCC to establish its credentials. It must avail it.

NFC meeting

The introductory meeting of the 11th National Finance Commission on Dec 4 is expected to set the tone for discussions between the centre and the provinces on a fresh award to govern the vertical and horizontal distribution of tax revenue from the federal divisible pool. Historically, NFC negotiations have rarely been smooth, except for those that finalised the existing seventh Award in 2009, largely because of the massive gap between the spending needs of the stakeholders and the limited revenue available for distribution. So, it is no surprise that each award has remained in place well beyond its constitutionally mandated five-year term. The current award has been in force for 15 years, despite multiple attempts to initiate negotiations for a new one since its expiry in 2015. In this context, the upcoming talks are unlikely to be friction-free or swift, especially because the centre wants to reclaim the fiscal resources it had ceded to the provinces under the existing award.

Apart from the federal government, the IMF and certain quarters have also wanted resource distribution to be rebalanced in favour of the centre. The PML-N had sought to roll back the constitutional protection for the provincial share in the divisible pool and reclaim federal control over the devolved subjects of population and education through the 27th Amendment. However, it had to retreat after its main coalition partner, the PPP, rejected the proposal. That said, this does not mean a win-win consensus is impossible within the existing constitutional framework for revenue distribution, provided the aim is to extend the devolution agenda to the grassroots. Indeed, the provinces have fallen short both in significantly increasing their own-source revenues and in transferring powers to the local governments. But they are not the only ones at fault. The centre, too, has failed to raise the tax-to-GDP ratio to 15pc despite the passage of 15 years since the implementation of the current award. Moreover, Islamabad has been unwilling to let go of devolved ministries and subjects or to curb its own wasteful expenditure. A reversal of their share would therefore be unacceptable to the provinces. They can, however, be persuaded to assume greater development responsibilities, tap their unexplored own-source revenues, and meaningfully devolve fiscal, political and administrative powers to local governments. But for that to happen, the centre has to fulfil its part of the bargain.

A captive market

PRIVATE schools realise that due to the subpar quality of state schools, families will do all they can to ensure their wards attend private institutions. This has resulted in the total commercialisation of education, with private schools burdening parents with unreasonable costs. Taking note of parents' complaints, the Competition Commission of Pakistan has issued notices to 17 private school systems to inquire into alleged non-transparent selling practices, such as forcing parents to purchase mandatory branded school books, stationery and uniforms. Parents had also complained of arbitrary price hikes. Many schools disallow the purchase of cheaper generic notebooks. In August, the Senate Standing Committee on Education had also taken note of complaints that many private schools were hiking annual fees beyond the legal limit. As per the law, schools can only increase fees by 5pc every year. When asked about the CCP's concerns, a representative of a private schools' association observed that the "topic needs some clarity".

It is a fact that if it were not for private schools, Pakistan's education situation would be even more dire. As per official figures from 2021-22, private institutions educate 25.5m children, which is over 46pc of total enrolled students. The figures have likely increased. This makes students, in the words of the CCP, "captive consumers"; private schools know that in order to give their children a better future, parents will enrol their kids with them. While it is true that many of these school systems are not charity institutions, and need to cover their costs, economic realities must be kept in mind. Fees rise every year, but family budgets are stagnant or rapidly shrinking. Therefore, private schools must not force parents to purchase expensive supplies from exclusive distributors, and must also reconsider arbitrary fee hikes. The long-term solution is a quality public sector education system. But until that dream is realised, private schools must not burden parents with exorbitant costs.

BY MUHAMMAD AMIR RANA

A tale of two cities

Public frustration and insecurity are as lethal as the threat of terrorism itself.

PAKISTAN'S internal security threats continue to escalate in complexity and lethality, even as state institutions attempt varied approaches to contain them. Instead of meaningfully reassessing their strategies, these institutions appear to be resorting to increasingly coercive and defensive responses. While coercion has its place, especially when integrated with a broader political strategy, an overemphasis on primitive actions risks undermining hard-won security gains and is counterproductive.

Before unpacking this argument further, it is worth examining how Pakistan's security apparatus is currently attempting to secure two key capitals: Islamabad, the federal seat of power, and Quetta, the provincial capital of Balochistan, a province grappling simultaneously with a protracted insurgency and the persistent threat of Islamist militancy.

The key issue is not to contrast London and Paris as Charles Dickens did, but to analyse how two Pakistani cities, despite receiving similar financial and human resources for security, face threats on different scales, one significantly more secure, the other less so. The state expends large resources on intelligence, deployments, and checkpoints. Still, terrorists exploit weaknesses: attacks occur less often in Islamabad and far more frequently in Quetta. The residents of both cities remain dissatisfied with the security institutions' counterterrorism strategies, as these measures directly disrupt their daily routines and negatively impact local businesses. The security institutions rarely take public grievances into account when developing their preventive strategies.

Recent statistics on terrorist incidents in Islamabad and Quetta underscore the pressing need for security agencies to rethink and modernise their preventive measures. In Islamabad, there have been six terrorist attacks since January 2021, resulting in 21 fatalities. Notably, the most recent attack on Nov 11, which struck the district courts and led to 12 deaths, was the deadliest; earlier attacks were comparatively smaller, occurring on the city's outskirts and primarily targeting police officers, with most incidents linked to the TTP.

In contrast, Quetta faced 152 terrorist attacks during the same period, causing 264 fatalities. The targets in Quetta were far more diverse: civilians, government officials, security forces, tribal elders, religious communities and their leaders, and political workers. The perpetrators were equally varied, from nationalist insurgent groups such as the Baloch Republican Guards, BLA, BLF, and BRAS (an alliance of BLA, BLF, and BRG), to Islamist militant and sectarian organisations including IS-K/ISPP, LeJ, TTP and UBA. This pattern has remained persistent. Since January alone, Quetta has suffered 32 attacks, causing 32 deaths, with the same range of actors and targets.

The data clearly shows that militant groups, their targets, and their operational tactics have evolved over the years. This shift reflects the ineffectiveness of current counterterrorism strategies, both operational and preventive, which rely heavily on security checkpoints, safe city surveillance systems, and internet jamming. In Islamabad, the latest attack is a stark reminder that terrorist groups have breached the defensive wall constructed by law-enforcement agencies.

The level of insecurity in Quetta is naturally very high, but residents of the federal capital are increasingly frustrated for different reasons: the expanding layers of security, the growing number of checkpoints, and hours-long road blockages due to the movement protocols for cricket teams, foreign dignitaries, and government officials. The city often comes to a standstill, reflecting nervousness and poor management despite the availability of substantial state resources. Yet the government appears reluctant to revisit or rethink its security planning.

When security agencies become overly obsessed with rigid protocols, they inadvertently give an advantage to terrorists who adapt their tactics, focusing on breaching these measures. Data from the two cities illustrates this pattern.

When terrorists gain a sense of advantage, or in some cases of victory, it weakens the state's coercive strategies. These strategies include pressuring states that provide hideouts or support to militants, as well as the political approach of engagement or non-engagement with such actors. The state's counter-propaganda strategies also lose credibility when the public sees a very different reality unfolding on the streets.

Pakistan has been pressuring the Taliban regime in Afghanistan to cease its support for terrorist networks, particularly the TTP. Just the other day, the Foreign Office stated that the resumption of trade with Afghanistan depends on Kabul ending cross-border terrorism, and even linked the future of key regional energy projects to the Taliban halting support for militant groups. This was in response to the Afghan deputy prime minister for economic affairs Mullah Abdul Ghani Baradar's recent press conference, in which he advised Afghan traders to stop exporting goods through Pakistan. Clearly, this approach is not working, as the adversaries see the level of frustration when dealing with them.

Law-enforcement agencies must enhance their use of human, financial, technical and cyber resources, and strategically adapt operations. Reliance on visible deterrence, such as check posts and major street blockades, disrupts public life, yet efficacy would not decrease with fewer check posts if technology were used more efficiently. As terrorists continually attempt to breach both overt and covert security measures, agencies must broaden their efforts across all domains.

Blocking highways and major routes for the movement of foreign and local VIPs does not reduce risks. In many cases, it increases them and fuels public panic and frustration. This frustration is particularly pronounced in Islamabad, while insecurity remains high in Quetta. Again, the data indicates that the state needs a comprehensive review of its countering strategies, with coherence across political, operational and preventive dimensions.

Public frustration and insecurity are as lethal as the threat of terrorism itself, yet these human-centred dimensions find little space in the state's counterterrorism thinking. State institutions often expect citizens to bear the burden of sacrifices required to secure cities, while ordinary people observe a contrasting reality: state functionaries allocate disproportionate resources to securing their own areas, creating red zones, deploying heavy contingents, and disrupting daily life whenever the power elites move through public spaces. ■

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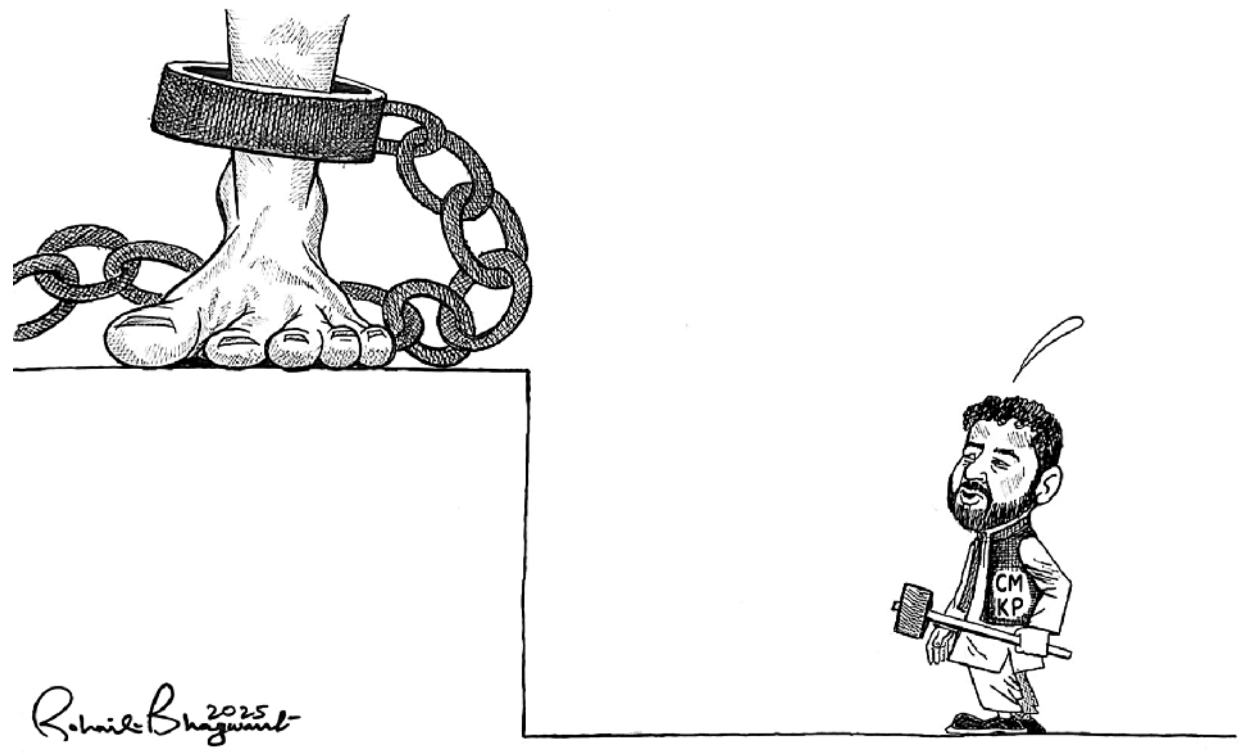

BY ABBAS NASIR

Mamdani trumps Trump

SOME US media comments calling President Donald J. Trump's meeting with New York City's mayor-elect Zohran K. Mamdani a 'bromance' may be exaggerated, but who'd have predicted that the Oval Office encounter would turn out to be so amicable that it astounded both the Republican Party rank and file and, possibly, even the top guns of the Democratic Party. The president, who had earlier described Mamdani as a "communist", an "anti-Semite" and a "lunatic", changed his tune ahead of the young mayor-elect's White House visit on Friday, saying he expected the meeting to be "cordial".

Only a day earlier, his press secretary Karoline Leavitt told a briefing: "It speaks volumes that tomorrow we have a communist coming to the White House, because that's who the Democrat Party elected as the mayor of the largest city in the country."

CNN reported that Republican Senator Rick Scott of Florida late on Friday morning called Mamdani a "literal communist" and predicted he was "on his way to the White House to be schooled by President Trump". The Republicans, CNN said, have spent weeks, even months, suggesting they were preparing to tie Democrats far and wide to Mamdani's politics. Democrats also seemed to fear this, judging by how reluctant some of them were to endorse him. "This was the GOP's [Republican Party] first big opportunity to drive that message — to set up this contrast between Trump's agenda and the purported communism that has infected the national Democratic Party … Trump trampled all over that strategy."

He must have shocked the Republican Party by rubbishing another one of its major lines of attack that Mamdani is a 'jihadist'. Trump was asked if he agreed with Republican candidate for New York governor (the vehemently pro-Israel Congresswoman) Elise Stefanik, who made that claim: "No, I don't", and attributed her comment to electioneering.

The president also complimented the young New Yorker, who was born when Trump was 45, on his win against some 'pretty tough' candidates, and said that the mayor-elect would surprise Republicans by his policies. Not just that, he jumped to his charismatic visitor's defence when the latter was questioned by reporters on some of his mayoral campaign rhetoric, including calling the White House incumbent a 'fascist'. This clearly was a change of heart and indicated a reversal of the stance Trump had held since Mamdani entered the race.

The obvious question many are asking is why? I asked one New York-based South Asian-origin analyst, who half-jokingly remarked that the mayor-elect seemed to have taken a leaf out of the Pakistan leadership's playbook by charming him, "killing him with kindnesses". Continuing on a more serious note, he said that Trump was a narcissist and a bully. Mamdani, who has exceptional emotional intelligence, may have played on both these traits of the president. He may have combined his South Asian charm — reverence for the elderly — with excellent communication skills, to appeal to the 79-year-old's narcissism, but he also firmly, though politely, made it clear that he was not one to be bullied.

> Although Mamdani stood respectfully by the president's side, he demonstrated that he was no pushover.

Although Mamdani stood respectfully by the president's side as the latter sat at his desk while speaking to the media, he quickly demonstrated that he was no pushover when asked if he believed whether the US was complicit in what he had called the genocide in Gaza. Mamdani repeated his stance that Israel committed genocide in Gaza that the US funded. He also proudly reiterated: "I am a Democratic Socialist."

At the same time, Mamdani stuck or reverted to his main election issue of 'affordability' for New Yorkers while answering all questions. Trump, whose approval rating has slumped as inflation is again rising in the US, could do nothing but agree that the cost of living was an issue. He said he also raised and hammered home this point in his presidential election campaign.

When asked if he'd cut federal funding to New York as he had threatened ahead of the mayoral election, Trump downplayed the possibility and said he'd be focusing on helping rather than hurting Mamdani to benefit the "city we both love". Trump may have moved to Florida in recent years, but will always be seen as a New Yorker and said he'd be cheering for Mamdani and that the mayor-elect wanted to make NYC great again.

Another analyst said the president likes 'strong' leaders as he has said publicly many times, whether referring to Pakistan's army chief or some of those he sees as his allies across the world, including the newly elected Japanese prime minister. "He must place Mamdani in the same category, as the mayor-elect battled the whole of the Republican Party and the Democratic Party establishment to win against immense odds."

There is no doubt that many political pundits have been in awe of the army of volunteers the young politician assembled for door-to-door campaigning and the superb messaging his media team developed to target new or first-time voters on social media as well as to spread his message to the general public through his interviews and campaign ads on legacy media.

Of course, the one missing element in media analyses of the apparent bonhomie in the Oval Office was the 'transactional' nature of the president's policies and demeanour. He was severe, even rude, to Ukrainian President Volodymyr Zelensky, because the latter to him was someone 'needy'.

But Mamdani is not. Perhaps, the fact that Trump, his close friend and special envoy Steve Witkoff, and his son-in-law Jared Kushner (and other cronies) all have real estate interests in NYC running into several billion dollars may also have been a factor.

Whether it is regulating real estate in the city including zoning, fire and safety regulations or the award of building licences, or contracts for social housing projects, the buck stops with City Hall. And the mayor more or less controls City Hall. So, Kushner, Witkoff and other family/friends-business associates, partners, and Trump himself, must have realised the importance of keeping City Hall onside, brushing aside political rhetoric and considerations. ■

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